



भारत का राजपत्र The Gazette of India

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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 28th December, 1990:—

I

BILL No. XXXI of 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 282 of the Constitution, the following proviso be added namely:—

“Provided that the grants made by the Union or a State shall be placed before the Finance Commission for approval and a statement of such grants shall be laid before each House of Parliament or the Legislature of the State, as the case may be, within sixty-days of making the grants.”.

Short
title
and
com-
mence-
ment.

Amend-
ment of
article
282.

STATEMENT OF OBJECTS AND REASONS

The framers of the Constitution made India's fiscal system truly federal in character, while the framers envisaged that the financial transfers from the Union to the States would be made in accordance with article 275 under the Chairmanship of the Finance Commission, the Planning Commission invoking an entirely different provision, *viz.* article 282 recommends plan assistance to the State Governments by passing the Finance Commission. In recent years, Central Ministries have overshadowed even the Planning Commission in using article 282 as well as article 293 (2) in making financial transfers to the States.

Article 282 of the Constitution has given wide powers to the Central Government to make grants to the States without adhering to any principles and overriding statutory fora, like Planning Commission, Finance Commission, etc. This has brought much criticism in the recent days. If unrestricted powers are given to the Central Government there is every chance of use of this power to grant financial assistance with a political motive. More than 30 per cent. of the total grants have been discretionary of the Central Government in the recent past. This has brought imbalance and discrimination among the States. Therefore, to avoid this, grants given to the States by the Central Government should be channelised through the Finance Commission and should be available for scrutiny of the Parliament or the States Legislatures.

Hence this Bill.

BAPU KALDATE

II

BILL NO. XXX OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Abolition of Capital Punishment Act, 1990.

Short
title.

2. The capital punishment for any offence, whatsoever, is hereby abolished.

Abolition
of
capital
punish-
ment.

45 of 1860.

3. Notwithstanding anything contained in the Indian Penal Code or any other law, for the time being in force, maximum punishment for any offence shall not be more than imprisonment for life.

Maxi-
mum
punish-
ment for
any
offence.

STATEMENT OF OBJECTS AND REASONS

Life is sacred and precious. So, one must imbibe reverence for life. Vengefulness is wastage of life.

Human beings are born but once, and they cannot be brushed aside and finished by any legal contrivance or a statutory dispensation. The State must not arrogate to itself a legal right to do away with the life of a human being.

Crimes like thefts, murders, assaults, decoities, etc., are undoubtedly grave offences against the society and human life. But they are interwoven with the social, economic, cultural, political and behavioural life-pattern of the community. Such ugly and objectionable deeds are directly the result of an insecure and indigent human society bereft of conditions of equilibrium and equity. The wrong doer or the criminal is, therefore, to be treated as a mental case and should be dealt with charitably and sympathetically without, of course, any misplaced leniency or unwarranted latitude. The emphasis has to be on reformation and education rather than on rejection and retribution.

All forms of death sentence are agonizing and cruel. Neither they cure the disease nor do they solve the problem of crimes. Human and universal experience shows that physical punishments scarcely ensure obedience to the different laws, rules and regulations designed for the good of community and welfare of society.

It must also be remembered that the human machinery set up for the purpose of awarding punishment to the guilty is bound to be full of inbuilt short-comings. Persons inflicting punishments including death sentence are liable to err and the evidence on which a sentence is awarded could be misleading and can cause miscarriage of Justice. A case of miscarriage of Justice in the event of death sentence having been executed can never be rectified for life once ended cannot be brought back. Thus, to keep an offender alive as a prisoner would in any case, be erring on the safeside.

Capital punishment has been abolished in several countries of the world and the experience so far does not indicate any appreciable growth in crime of murder in these countries. Then, why should we in India lag behind in this matter, especially when capital punishment has never been encouraged by our centuries old traditions, morality and ethics.

Death sentence can never be indispensable. What is important to note is that long terms of imprisonment are equally effective. And, what is more, life sentence leaves an opportunity for reformation, almost a re-birth of the criminal and for a remedy for a possible miscarriage of Justice.

Hence, this Bill.

III

BILL NO. LV OF 1990

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.

(2) It shall come into force with immediate effect.

2. Article 244A of the Constitution shall be omitted.

Short
title
and com-
mence-
ment.

Omission
of article
244A.

STATEMENT OF OBJECTS AND REASONS

The People of the three districts, namely, Khasi Hills, Jaintia Hills and Garo Hills of the undivided Assam were continuously demanding a separate State of Meghalaya. It was decided by the Government of India to create such an Autonomous State within the State of Assam. Parliament enacted the Constitution (Twenty-second Amendment) Act, 1969 for the purpose of meeting the said demand. New Article 244A was accordingly inserted in the Constitution by the Twenty-second Amendment Act. The Autonomous State comprised of the tribal areas specified in Part I of the Table appended to Paragraph 20 of the Sixth Schedule to the Constitution, namely, the Khasi Hills, Jaintia Hills and Garo Hills. The Autonomous State comprising the said three districts was formed in 1969 and was known as the Autonomous State of Meghalaya within the State of Assam. During the process of formation of the said Autonomous State, other two tribal areas, namely, North Cachar Hills and Mikir Hills Districts, were offered to join the said Autonomous State but the people of the said two tribal areas did not opt for their inclusion within the said newly formed Autonomous State.

Subsequently by the North Eastern Areas (Reorganisation) Act, 1971, Article 244A was amended. After the said amendment it has become possible for the people of two districts, namely, North Cachar Hills and Mikir Hills, to claim for another Autonomous State comprising the said two hill areas within the State of Assam. The intention of the Central Government and the Parliament while passing the Twenty-second Amendment Act was to make a law for the creation of one and only one Autonomous State within the State of Assam. Thus, after the North Eastern Areas (Reorganisation) Act, 1971, by which a full-fledged State of Meghalaya was created, Article 244A which was inserted by the Twenty-second Amendment to the Constitution served its purpose. There is now no justification for allowing the said Article to continue in the Constitution and the said Article should be omitted forthwith.

On the basis of article 244A of the Constitution some tribal people of the Districts of Karbi Anglong and North Cachar Hills are resorting to Bandhs and other violent activities demanding an Autonomous State within the State of Assam. The people of the districts of North Cachar Hills and Mikir Hills are not entitled to make a demand for an autonomous State comprising the said two districts within the State of Assam.

In view of the above facts and circumstances, it is high time to omit Article 244A from the Constitution of India.

Hence this Bill.

BIJOYA CHAKRAVARTY

IV

BILL No. LIV OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) The Act may be called the Constitution (Amendment) Act, 1990.

Short
title and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint or on expiry of one month from the date of assent of the Act whichever is earlier.

Amend-
ment of
article
124.

2. For article 124 of the Constitution, the following article shall be substituted, namely:—

Estab-
lish-
ment and
constitu-
tion of
the
Supreme
Court
and Na-
tional
Judicial
Commis-
sion.

“124. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than thirty other judges.

(2) A person shall not be qualified for appointment as a judge of the Supreme Court unless he is a citizen of India and—

(a) has been for at least five years a Judge of a High Court or of two or more such Courts in succession; or

(b) has been for at least ten years an advocate of a High Court or of two or more such Courts in succession; or

(c) is a distinguished jurist.

Explanation I.—In this clause “High Court” means a High Court which exercises, or which at any time before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India.

Explanation II.—In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person has held judicial office not inferior to that of a district judge after he became an advocate shall be included.

(3) The age of the judge of the Supreme Court shall be determined by the National Judicial Commission.

(4) Every Judge of the Supreme Court shall hold office during the pleasure of the National Judicial Commission.

(5) Notwithstanding anything contained in clause (3), every Judge of the Supreme Court shall cease to hold office on his attaining the age of sixty seven years or on his resignation by writing under his hand addressed to the President, whichever is earlier:

Provided that every sitting Judge of the Supreme Court on the date of the coming into force of this Act shall cease to hold office on attaining the age of sixty five years.

(6) A Judge of the Supreme Court may be removed from his office by an order of the President at any time, on the National Judicial Commission making recommendation that the Judge be so removed.

(7) Every person appointed to be a Judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President, or some person appointed in that behalf by him an oath or affirmation according to the form set out for the purpose in the Third Schedule.

(8) No person who has held office as a Judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

(9) The National Judicial Commission shall be constituted by the President within a month after the commencement of the Constitution (Amendment) Act, 1990 for the purposes of this article and for articles 126, 127, 128, 217, 222, 223, 224 and 224A consisting of—

(a) the Chief Justice of India and two senior most Judges of the Supreme Court of India;

(b) Chairman of the Bar Council of India;

(c) the Lok Pal, if any, or any other functionary if any, by whatever name called exercising the functions of the Lok Pal under an Act of Parliament;

(d) the Minister of the Central Government incharge of Law and Justice or such other Minister as may be specially designated by the Central Government for this purpose;

(e) the leader of the opposition in the House of the People;

(f) a distinguished academician having special knowledge of law, selected by the President in his discretion.

(10) The National Judicial Commission shall frame rules regulating the conduct of its business.

(11) The President shall, in consultation with the National Judicial Commission, determine the emoluments, if any, to be paid to any Member of the National Judicial Commission in respect of the discharge of his duties as such Member.

(12) The National Judicial Commission shall evolve its own procedure and norms for investigation into the suitability of persons to be appointed as Judges of the Supreme Court as well as circumstances necessitating the exercise of the President's power of removal under clause (6).

(13) The advice of the majority of the Members of the National Judicial Commission shall be the advice of the National Judicial Commission as a whole, provided that when the members are equally divided the Chief Justice of India shall have a casting vote.

(14) It shall be the duty of the Chairman of the Bar Council of India to ascertain the views of the Bar Council in such manner and to such extent only as he in his sole discretion considers fit on matters relevant to his duties as a member of the National Judicial Commission."

3. In article 126 of the Constitution after the words "for the purpose", the words "in accordance with the advice of the National Judicial Commission", shall be added.

Amendment of article 126.

4. For article 127 of the Constitution the following article shall be substituted, namely:—

Amendment of article 127.

"127. (1) If at any time there should not be a quorum of the Judges of the Supreme Court available to hold or continue any session of the Court, the President of India may, with the previous consent of the National Judicial Commission, request in writing the attendance at the sittings of the Court, as an *ad-hoc* Judge, for such period

Appointment of *ad hoc* judges.

as may be necessary, of a Judge of a High Court duly qualified for being appointed as a Judge of the Supreme Court.

(2) It shall be the duty of the Judge who has been so designated, in priority to other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance is required, and while so attending he shall have all the jurisdiction, powers and privileges, and shall discharge the duties, of a Judge of the Supreme Court."

Amend-
ment of
article
128.

5. For article 128 of the Constitution the following article shall be substituted, namely:—

Attend-
ance of
retired
Judges at
sittings
of the
Supreme
Court.

"128. Notwithstanding anything in this Chapter, the President of India at any time, with the previous consent of the National Judicial Commission, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court or who has held the office of a Judge of a High Court and is duly qualified for being appointed as a Judge of the Supreme Court, to sit and act as a Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may, by order determined, and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a Judge of that Court:

Provided that nothing in this article shall be deemed to require any such person as aforesaid to sit and act as a Judge of that Court unless he consents so to do."

Amend-
ment of
article
217.

6. (1) In article 217 of the Constitution for clause (1), the following clauses shall be substituted, namely:—

"(1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal in accordance with advice of the National Judicial Commission, referred to in article 124, provided that the National Judicial Commission shall not tender any advice until after consultation with the Governor of the State and the Chief Justice of the High Court.

(2) A Judge of a High Court shall cease to hold office on his attaining the age of sixty five years or on his resignation by writing under his hand addressed to the President, whichever is earlier:

Provided that every sitting Judge of the High Court on the date of the coming into force of this Act shall cease to hold office on attaining the age of sixty two years.

(3) A Judge of the High Court may be removed from his office by order of the President at any time, on the National Judicial Commission making recommendation that the Judge be so removed.

(4) (a) Every person appointed to be a Judge of the High Court shall, before he enters upon his Office make and subscribe before the Governor or some person appointed in that behalf by

him, an oath or affirmation according to the form set out for the purpose in the Third Schedule."

(b) Clauses (2) and (3) of article 217 shall be re-numbered as clauses (5) and (6) respectively.

7. Article 218 of the Constitution shall be omitted.

Omission of article 218.

8. In article 222 of the Constitution for clause (1) the following clause shall be substituted, namely:—

Amendment of article 222.

"(1) The President may, in accordance with the advice of the National Judicial Commission transfer a Judge from one High Court to any other High Court."

9. In article 223 of the Constitution after the words "for the purpose" the words "in accordance with the advice of the National Judicial Commission" shall be inserted.

Amendment of article 223.

10. (1) In clause (1) of article 224 of the Constitution after the words "qualified persons" the words "approved by the National Judicial Commission" shall be inserted.

Amendment of article 224.

(2) In clause (2) after the words 'qualified person' the words 'approved by the National Judicial Commission' shall be inserted.

(3) Clause (3) shall be omitted.

11. In article 224A of the Constitution for the word 'President' where it first occurs the words the National Judicial Commission shall be substituted.

Amendment of article 224A.

STATEMENT OF OBJECTS AND REASONS

Constitutional democracy requires a fiercely independent and totally incorruptible judiciary. To ensure this the influence of the executive in the appointment process for the judiciary should be curtailed and other elements of public life adequately represented in the appointment and supervisory process.

Security of tenure and the possibility of impeachment have failed to eliminate judicial misconduct and corruption. A Judge's independence and integrity must not only exist but be believed to exist by the bar and the public generally. A judge should not be allowed to count on his continuance in office when either of these conditions has ceased to exist. The power of appointment, transfer and removal of superior Court Judges is sought to be lodged in a body called the National Judicial Commission which is expected to monitor Judicial performance at all times. The constitution of the Commission ensures its exalted status and ability to command public confidence.

Hence this Bill.

RAM JETHMALANI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the Constitution of the National Judicial Commission along with the Supreme Court of India. The functionaries and office staff of the Commission will draw travelling and other allowances, salaries and other expenditure will have to be incurred on contingencies for running the office. It is not possible to estimate at this stage the exact expenditure to be involved on this account. However, it is estimated that recurring expenditure of about rupees two crores per annum will be involved from the Consolidated Fund of India.

A non recurring expenditure of rupees ten lakhs is also likely to be incurred.

V

BILL No. LVIII of 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1990.
2. In article 310 of the Constitution, clause (1) shall be omitted.
3. In article 311 of the Constitution,—
 - (a) the second proviso to clause (2) shall be omitted;
 - (b) clause (3) shall be omitted.

Short
title.

Amend-
ment of
article
310.

Amend-
ment of
article
311

STATEMENT OF OBJECTS AND REASONS

The provisions sought to be omitted had been bodily taken from the provisions made in Queen Victoria's Proclamation of 1858 and the Government of India Act, 1935. These provisions affect the fundamental and democratic rights of the Central and State Government employees and workers, many of whom have already been arbitrarily removed from services under these undemocratic and anachronistic provisions. These provisions deprive the employees of protection in accordance with the principles of natural justice as their services are at the mercy of Government. In view of this position it is necessary that these provisions empowering the Government to dispense with the services of Government employees without giving them any opportunity of self-defence and without assigning any reason, should be deleted from the Constitution.

Hence this Bill.

SUKOMAL SEN

VI

BILL NO. LIX OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.

Short
title and
commen-
cement.

(2) It shall come into force with immediate effect.

2. After article 30 of the Constitution, the following article shall be inserted, namely:—

Insertion
of new
article
30A.

“30A. (1) The State shall provide free education including engineering and medical education, to all children upto graduation level.

Right to
free
education
upto
gradua-
tion
level.

(2) The State shall also provide adequate number of schools, colleges including engineering and medical colleges and free books, stationery, uniforms, transport nutritious meals and hostel facilities to the students to avail the benefits provided in this article.”

3. Article 45 of the Constitution shall be omitted.

Omission
of article
45.

STATEMENT OF OBJECTS AND REASONS

Even after 43 years of Independence our country has made very little progress in the field of education. More than 60 per cent of the population is still illiterate and majority of them are from villages. In male female ratio of illiteracy females contribute to more than 90 per cent. Similarly amongst the Harijans, adivasis and backward communities the rate of illiteracy is very high. The simple, orthodox illiterate villagers become easy prey to the landlords and Mahajans who exploit them to the maximum and as a result thereof these simple men, women and children, unaware of their rights, work as bonded labour throughout their lives. In the urban areas also the contractors and other persons in similar trades exploit these illiterate men and women.

Though article 45 of the Constitution directs the State to provide free education to the children upto the age of 14 years yet we have not achieved the target of even free primary education for all children. The engineering and medical education has become the monopoly of affluent ones though there is no dearth of talent at the village level. It is really a matter of concern for all of us that during the past 43 years we have given very low priority to education. There are no pucca schools, no desks, no teachers, no libraries, no laboratories and even no black boards. Since article 45 is not enforceable in a court of law, we will have to make education a Fundamental Right so as to force the Government to give top priority to education. It is high time that this is done.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for right to education upto graduation level. Since the right is being made a Fundamental Right the Government will have to establish schools and colleges, for providing education free of cost. The Bill, if enacted would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees one thousand crores per annum.

It is also likely to involve a non recurring expenditure of rupees one hundred crores.

VII

BILL No. LXII OF 1990

A Bill to provide for the financial relief to the people for damage caused to their crops, property, livestock or loss of life suffered by them due to cyclones and floods and matters connected therewith.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Financial Relief to the Cyclone and Flood Victims Act, 1990.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Short
title
extent
and com-
mence-
ment.

2. Every person whose crops have been damaged by cyclones or floods shall, on an application made in the prescribed form, be paid adequate financial relief by the Central Government in proportion to the loss of crops suffered by him.

Financial
Relief
for dam-
age to
crops.

Explanation.—For the purposes of this section crop means and includes all types of cereals, pulses, oil-seeds, vegetables and fruits.

Shelter
in case of
destruction of
house
and property.

3. The Central Government shall in consultation with the concerned State Government provide to every family, whose house and property have been destroyed by cyclone or flood, a dwelling unit either at the same place or at any other place.

Financial
relief for
loss of
live-
stock.

4. Every person whose livestock has been lost due to cyclones or floods shall, on an application made in the prescribed form, be paid by the Central Government adequate financial relief to purchase essential livestock.

Financial
relief in
case of
death.

5. If any person dies as a result of Cyclones or floods, the Central Government shall, on an application made in the prescribed form by his surviving dependents, pay a sum of rupees one lakh to them as financial relief.

Job to the
next of
kin and
kin of a
cyclone
or flood
victim.

6. The Government of the State or the Union territory, in whose territorial jurisdiction the victim loses his life due to cyclones or floods, shall provide a suitable job to one of the eligible dependents of the victim.

Saving of
other
laws.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Appointment of
Commissioners
for
settling
claims.

8. The Central Government shall, in consultation with the Government of the State or Union territory concerned, appoint within one month of the occurrence of any cyclones or floods, a Commissioner with such other staff as may be necessary, for settling the claims for payment of financial help to the victims:

Provided that the Commissioner shall dispose of a claim within three months of the receipt of the application by him.

Power to
make
rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Major parts of the State of Bihar are inundated by the fury of a floods every year caused by the rivers emanating from Nepal, Uttar Pradesh and Madhya Pradesh. Millions of helpless poor people of the State are badly affected by floods. They lose their houses and other properties, livestock, crops and even their own lives in floods. Similarly there are other States in the North Eastern region particularly Assam, Arunachal Pradesh which are severely affected by floods almost every year. This year (1990) even the States like Gujarat and Rajasthan were badly affected by floods. The coastal areas of the country particularly Andhra Pradesh and Tamil Nadu are frequently affected by cyclones causing widespread devastation and havoc there. The concerned State Governments do try to mitigate the sufferings of the affected people but due to financial constraints they are not able to provide adequate relief to them. However there always remains a big gap between the demands made by the affected States and the relief given by the Central Government.

Since the assistance provided by the Central Government is the main source on which the State Governments depend for providing relief to the persons affected by cyclones and floods it is felt that the Union Government should bear the entire burden in this regard. Therefore, it is proposed that financial relief to the cyclone and flood victims should be paid by the Central Government through a Commissioner.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for financial relief for damage to crops. Clause 3 provides for provision of shelter in case of destruction of house property. Clause 4 provides for financial relief for loss of livestock. Clause 5 provides for financial relief in case of death. Clause 8 provides for appointment of Commissioner for settling the claims. Therefore, the Bill, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees six hundred crores will be required for the purpose from the Consolidated Fund of India per annum.

A recurring expenditure of rupees one crore per annum is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the delegation of powers relates to routine matters only, it is of normal character.

VIII

BILL No. LXI OF 1990

A Bill to provide for compulsory insurance of crops and protection to farmers against loss suffered in natural calamities and for matters connected therewith.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Crop Insurance Scheme Act, 1990.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

(a) “authority” means an authority constituted under section 6;

(b) “crop” means and include paddy, wheat, gram, bajra, barley, millet, corn, potato, soyabean, sunflower, groundnut, sugarcane, orchards, cotton, tobacco, all types of cereal and pulses and such other agricultural commodities which may be notified from time to time by the Central Government in the Official Gazette;

Short
title,
extent
and
com-
mence-
ment.

Defini-
tions.

(c) "natural calamity" means and includes flood, drought, cyclone, earthquake, landslides and such other natural happenings affecting the crops;

(d) "prescribed" means prescribed by the Rules made under this Act;

(e) "Scheme" means the Crop Insurance Scheme framed under Section 3.

Crop Insurance Scheme.

3. (1) The Central Government shall frame a Scheme to be known as "Crop Insurance Scheme" for comprehensive and compulsory insurance of crops against natural calamities.

(2) The Scheme shall, among other things, provide for—

(a) the terms and conditions of crop insurance;

(b) the extent to which loss caused by natural calamities may be covered;

(c) the rate of premium to be paid by farmers;

(d) any other matter which the Central Government may deem necessary.

Scheme to be administered by the Central Government.

4. The Schemes shall be administered by the Central Government with the assistance of the State Governments.

The Crop Insurance Fund.

5. The Central Government shall in consultation with the State Governments and by notification in the Official Gazette, establish a Crop Insurance Fund which shall consist of—

(a) premium amounts received from farmers for crop insurance;

(b) grants made to the fund by the Central Government;

(c) grants made to the fund by the State Government;

(d) any money received as donations for the purposes of this Act;

(e) any income from investment of the amounts of the fund;

Provided that the Central Government shall contribute two third of the total grants referred to in paras (b) and (c) above and one third shall be contributed equally by the State Governments.

Authority to assess losses due to natural calamities.

6. (1) The Central Government shall in consultation with the concerned State Governments and by notification in the Official Gazette, constitute an authority in every district to assess the losses suffered by the farmers due to any natural calamity.

(2) The authority shall consist of a Chairman, to be appointed by the Central Government in consultation with the concerned State Government and such other officers and staff as may be required for carrying out the purposes of this Act.

(3) The authority shall associate representatives of farmers of the area at the time of assessment of loss.

7. (1) It shall be the responsibility of the Central Government to pay the Insurance amount to every farmer for the loss of crop suffered by him due to any natural calamity.

Payment
of crop
insur-
ance
amount.

(2) The Insurance amount shall be paid from out of the Insurance fund.

8. In the case of orchards, if there is loss of fruit alongwith fruit bearing trees in any natural calamity, the authority while calculating the loss suffered by a farmer, shall also take into account the cost incurred by the farmer on the upbringing of the fruit trees.

Special
provision
for orch-
ards.

9. (1) The Nationalised and Co-operative Banks shall advance to every farmers affected by any natural calamity such amount, as may be determined by the Central Government, as a long term loan for carrying out agricultural operations and for purchasing milch cattle.

Conces-
sional
loans to
farmers
in areas
affected
by
natural
calami-
ties.

(2) The loan referred to in sub-section (1) shall be repayable in easy instalments over such period as may be prescribed with simple interest, not exceeding three per cent. per annum.

10. The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power
to make
rules.

STATEMENT OF OBJECTS AND REASONS

India is primarily an agriculture-based country despite its industrial and technological progress. Agriculture is dependent on monsoons with all its uncertainties determining the yield of harvest. If a farmer does not reap a good harvest then all his hopes are dashed because his day-to-day needs such as clothing, items of daily household use, marriages in family, purchase of fertilizers, insecticides, tools, tractors or their parts, payment of electricity bills and other taxes and repayment of loans, depend on his crop. In these circumstances a comprehensive and compulsory insurance scheme for crops is urgently needed. Such a scheme will give a new hope to millions of farmers in the country whose crops are getting damaged by natural calamities like droughts, floods, cyclones, landslides, etc. annually. Their needs can further be met by providing them loans at concessional rates in addition to the crop insurance cover so as to enable them to reactivate their agricultural operations including purchase of milch animals and sustain source of income for the family. Though crop insurance scheme has been started in some areas on an experimental basis, its impact is yet to be felt. There is, therefore, an urgent need for starting a comprehensive crop insurance scheme to protect the interests of all farmers throughout the country.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for framing of a Crop Insurance Scheme. Clause 4 provides that Central Government shall administer the Scheme. Clause 5 provides for the establishment of a Crop Insurance Fund. Clause 7 provides that it shall be the responsibility of the Central Government to pay the insurance amount. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees two hundred crores.

It is also likely to involve a non-recurring expenditure of about rupees one crore.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

IX

BILL No. LXIII OF 1990

A Bill to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1990.

Short
title and
commen-
cement.

(2) It shall come into force at once.

2. After article 26 of the Constitution the following article shall be inserted, namely:—

Insertion
of new
article
26A.

“26A. (1) Notwithstanding anything in this Constitution, no religious denomination or any section thereof shall practise or manage its place of worship whether called *Mandir*, *Masjid*, *Gurudwara*, *Shrine*, *Church* or by any other name in a manner which shall alter the status, position, architecture, or construction of any such place as it existed on the fifteenth day of August one thousand nine hundred and forty-seven.

Mainten-
ance of
Status
quo of
religious
places.

(2) Parliament may by law regulate all matters pertaining to such places of worship so as to maintain *status quo* in respect of them as they existed on the fifteenth day of August one thousand nine hundred and forty-seven.”

STATEMENT OF OBJECTS AND REASONS

In our country a number of *Mandirs*, *Masjids*, *Gurudwaras* and *Churches* have either been set up or renovated, expanded or their *status quo* has been changed after we achieved independence on 15th August, 1947. In some cases the change has resulted in worst communal hatred in the country. For instance at the time of our independence the Ram Janambhoomi Temple at Ayodhya was under lock and seal and there was no tension at all amongst the Hindus or Muslims over it. However later on the seal and lock were opened under an order of a court of law. This has resulted in spread of communal hatred in the country. The controversy is threatening the unity and integrity of the country. Had the *status quo* as on 15th August, 1947 been maintained in respect of this, this country would have been saved from the present communal virus engulfing the nation itself. Still there is time to rectify the matters and make a provision in the Constitution to maintain *status quo* of all religious places as on 15th August, 1947.

Hence this Bill.

GURUDAS DAS GUPTA

SUDARSHAN AGARWAL,
Secretary-General.